



JERRY SANDERS
MAYOR

October 20, 2010

Honorable Kevin A. Enright
Presiding Judge
San Diego County Superior Court
Hall of Justice
330 West Broadway, Suite 477
San Diego, CA 92101-3830

Subject: 2009/2010 Grand Jury Report entitled "Efficiency in Government-Managed Competition, Outsourcing, Reengineering And Reverse Auction Within San Diego County"

Dear Judge Enright:

Pursuant to California Penal Code Section 933.05(a), (b) and (c), the City of San Diego provides the following responses to the findings and recommendations in the above entitled Grand Jury Report:

FACTS – SET ONE - #5

Mayor's Correction: The referenced PERB decision was entered on August 22, 2008, rather than September 18, 2008.

Finding 01: In November, 2006 the voters of the City of San Diego amended Section 117(c) of the City Charter to permit the City to employ independent contractors to perform city services and requiring that the City Council enact an ordinance implementing the amended City Charter.

Agree.

Finding 02: The City has expended many hours in numerous sessions attempting to negotiate with City unions the terms of the implementing ordinance and managed competition guide.

Agree.

Finding 03: The City has yet to enter a contract under the charter amendment passed by the voters on November 7, 2006.

Agree.

Finding 04: Managed Competition is stalled in a political and ideological battle that may ultimately have to be resolved: by enactment in November 2010 of the alternative Competition and Transparency in City Contracting Initiative 2010, an election result that alters the partisan split, or by some other means.

Partially Disagree. There have been a number of delays which have stalled the implementation of Managed Competition – one being a complaint filed by labor to the Public Employee Review Board (PERB) in July 2008 and a subsequent ruling by PERB that labor and the City must renegotiate the original guide to clearly outline Managed Competition procedures. After reaching impasse with the affected labor unions on September 23, 2009, the City Council conducted an impasse hearing on October 27, 2009, at which time it rejected the Mayor's last best final offer. Since that time, the City Council provided direction to the Mayor's negotiating team and progress was made with impacted labor organizations. On October 12, 2010, the City Council approved by a vote of 5-1 with one member recused and one member not present, to adopt the Managed Competition Guide via an ordinance. The City Council and the Mayor are now committed to implementing Managed Competition.

Finding 05: The Grand Jury is empowered to make recommendations to the Mayor and City Council; but lacks the jurisdiction to make recommendations to the American Federation of State, County and Municipal Employees, AFL-CIO, Local 127, and the Municipal Employees Association. If the Grand Jury had such jurisdiction it would include these employee organizations in its recommendations.

The Mayor declines to opine on the Grand Jury's jurisdiction to make recommendations to labor organizations, or what the Grand Jury's actions would be if they believed they had such jurisdiction.

Finding 06: The City Facilities Division completed its Business Process Reengineering in June, 2008, but the BPR has not been implemented because the Union will not meet and confer on implementation.

Disagree. AFSCME Local 127 did initially refuse to meet and confer on the Facilities Maintenance BPR. They have since agreed to do so.

Finding 07: The Grand Jury is empowered to make recommendations to the Mayor and City Council; but lacks the jurisdiction to make recommendations to the American Federation of State, County and Municipal Employees, AFL-CIO, Local 127, and the Municipal Employees Association. If the Grand Jury had such jurisdiction it would include these employee organizations in its recommendations.

The Mayor declines to opine on the Grand Jury's jurisdiction to make recommendations to labor organizations, or what the Grand Jury's actions would be if they believed they had such jurisdiction.

RECOMMENDATIONS

10-99: Proceed with the impasse process or other appropriate process to approve and enact the implementing ordinance, approve the Managed Competition Guide, and proceed to full implementation of amended Section 117(c) of the City Charter.

Response: This recommendation has been implemented. On October 12, 2010, the City Council approved by a vote of 5-1 with one member recused and one member not present, to adopt the Managed Competition Guide via an ordinance.

After reaching impasse with the affected labor unions on September 23, 2009, the City Council conducted an impasse hearing on October 27, 2009, at which time it rejected the Mayor's last best final offer. Since that time, the City Council provided direction to the City's negotiating team, in fulfilling their duty under Council Policy 300-06 to resolve the impasse. The Mayor and the City Council have resolved the impasse and as stated above, the adoption of the ordinance occurred. The Mayor and City Council are now implementing a managed competition program to determine if city services can be provided more economically and efficiently by an independent contractor than by persons employed in the Classified Service while maintaining service quality and protecting the public interest.

10-100: Proceed with the impasse process or other appropriate process to approve and implement the Facilities Maintenance Division Business Process Reengineering, as well as other BPRs that have been completed by the City but have not been implemented because of refusal of the applicable union to meet and confer regarding BPRs.

Response: The recommendation has not yet been implemented but will be implemented upon completion of the required meet and confer process and City Council approval. The Mayor is committed to achieving costs savings through business process reengineering, efficiency studies, and other efforts. There have been a total of 21 completed BPRs that have been docketed by the Mayor for City Council action. All have been approved by the City Council. BPRs implemented to date by the Mayor have achieved over \$39M in annual savings and over \$6M in additional cost avoidances. Council approval will continue to be sought on completed BPRs either after, or subject to, completion of meet and confer obligations with labor. The Facilities Maintenance BPR is one of three completed BPRs that have not yet been presented to the full City Council due to meet and confer obligations that are not yet complete. It is currently under staff review prior to meeting with labor. The labor organizations are no longer taking the position that BPRs cannot be implemented before a managed competition process is complete. Progress has been made with impacted labor organizations and the City continues to meet and

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confer, as required by law. The Mayor is also committed to continuing to monitor the implementation of BPRs that are approved by City Council.

Please contact Wally Hill, Assistant Chief Operating Officer at 619-533-4534 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Sanders', with a stylized, looped flourish at the end.

JERRY SANDERS
Mayor

cc: San Diego County Grand Jury
Chief Operating Officer
Assistant Chief Operating Officer
City Clerk
Independent Budget Analyst
Administration Department Director